

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SENTENCING MINUTES

HON. **Rudolph T. Randa**, presiding.

Deputy Clerk: **Linda M. Zik**

DATE: **January 6, 2014 2:00 p.m.**

Court Reporter: **Sheryl Stawski**

CASE NO. **12-Cr-189**

Time Called: 2:06 p.m.

UNITED STATES of AMERICA v. **Nicole Jean Talsky**

Time Concluded: 2:53 p.m.

UNITED STATES by: **Erica N. O'Neil**

PROBATION OFFICER: **Sara M. Nieling**

INTERPRETER:

DEFENDANT: **Nicole Jean Talsky**, in person, and by

ATTORNEY: **Amelia L. Bizzaro**

Custody Bureau of Prisons 24 months on Count 1 of the Information

Indictment dismissed on government's motion.

Recommended Institution: facility close to home

Supervised Release 4 years on Count 1

Special Conditions

 Community Correctional Center for

 Fine/Restitution \$ mo.

 X Report in 72 hours

 Financial disclosure

 X No firearms

 No new credit charges

 X Drug & alcohol testing - no alcohol

 Community service hrs.

 X Not illegally possess any controlled substance

 Cooperate with IRS

 Cooperate with Child Support Enforcement

 Cooperate with ICE

 Provide DNA – already provided

 X Report to Court w/Probation Officer to discuss Supervised Release conditions

Sentencing Minutes Continued

Defendant: **Nicole Jean Talsky**

Case No.: **12-Cr-189**

Fine: \$

X Fine and costs waived

X Participate in BOP Inmate Financial
Responsibility Program

Restitution:

Payee:

Forfeiture:

X Defendant remanded to custody of U.S. Marshal

___ Execution of sentence stayed until 12:00 pm on

___ Voluntary surrender to institution

X Defendant advised of right to appeal by court

___ Court orders copy of transcript to accompany presentence report

Special Assessment:

\$100.00

Other:

Court has the revised PSR and the addendum to the PSR.

No additional objections by the parties to the factual statements in the PSR.

Sentencing Minutes Continued

Defendant: **Nicole Jean Talsky**

Case No.: **12-Cr-189**

Defendant's objections:

- (1) Page 18, Paragraph 64 – Base offense level of 30 is based on 3.5 to 5 kilograms of cocaine;
- (2) Page 18, Paragraph 67 – Defendant should receive a 4-level reduction for minimal role pursuant to U.S.S.G. § 3B1.2(a).

On 1/3/2014 a second amended addendum was filed regarding these objections.

- (1) Parties agree the defendant is responsible for 500 grams to 2 kilograms of cocaine;
- (2) Government agrees with probation.

Base offense level is 26; minus 2 points for safety valve, minus 2 points for a minor role, and minus 3 points for acceptance of responsibility = 19.

Government agrees with a 2-point reduction not 4 as to minor role.

Government, as to role, addresses the second addendum. Application note 4 U.S.S.G. § 3B1.2 states what a minimal participant is. It is someone who does not understand the co-defendants' roles. But, the defendant was involved on about a daily basis with Steven Jones. She was involved in 2 trips out of state bringing cocaine into Milwaukee from Illinois and Texas for Steven Jones. It was then distributed to his customers. She directed customers to him. She also personally distributed cocaine. A minor role is appropriate with a 2-point adjustment.

Defense counsel relies on the arguments made in its sentencing memorandum. The defendant qualifies as a minimal role. She did not have knowledge of distribution of the drugs from Texas or Illinois. Counsel compares the defendant to co-defendant Tiffany Martinez.

Government requests a sentence within the guideline range of 30-37 months.

Court finds she had a minor role and applies a 2-point adjustment.

Government addresses § 3553(a). Defendant has had a difficult past, and a lot of change and difficult situations. But it does not offset her behavior in the offense or on pretrial release. She originally was on bond but violated her conditions. She was ordered detained based on these violations. This indicates she has a further need for rehabilitation. Defense counsel will request a time-served sentence but the defendant is still in need of rehabilitation. A guideline sentence is reasonable based upon her involvement and based upon her charge.

Sentencing Minutes Continued

Defendant: **Nicole Jean Talsky**

Case No.: **12-Cr-189**

Defense counsel requests a time-served sentence. You can't talk about the defendant without talking about her drug addiction. She was born to drug addicts into a high-risk environment. She has mental health issues including depression, anger and Attention Deficit Disorder. She is older now and equipped to deal with her past. She is one of nine children. The younger 7 were adopted. She has a great capacity to overcome her addiction. She will participate in drug counseling/treatment. She experienced a relapse on bond. She has been sober the past 11 months (while in custody). She is in the midst of recovery. Impose time-served with 4 years supervised release. This was her first incarceration. She has worked hard on her GED/HSED.

Defendant's right of allocution.

Court addresses § 3553(a):

OL = 27, CHC = I, 30-37 mos.

(1) Nature of offense: distribution of crack cocaine; 3.5-5K adjusted to 500 grams to 2 kilograms;

(2) History of defendant: she and her 9 siblings were neglected by her parents; used marijuana; had a relapse and was incarcerated because of it;

Positives are what she has done:

- obtained her GED;
- is intelligent;
- shows initiative;

(3) For just punishment – 24 months incarceration imposed. This is below the guideline range.